

# TAB 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CRYOVAC, INC.,	)	
Plaintiff/Counter-Defendant	)	
	)	
v.	)	
	)	Civil Action No. 04-1278-KAJ
PECHINEY PLASTIC PACKAGING, INC.	)	
	)	
Defendant/Counter-Plaintiff.	)	

**CRYOVAC'S PROPOSED FORM OF SPECIAL VERDICT**

We, the jury in the above-titled action, find the following special verdict on the questions submitted to us:

**I. WILLFUL INFRINGEMENT**

Question 1: Did Cryovac prove by clear and convincing evidence that Pechiney's infringement of claim 11 of the '419 patent was willful?

Yes	_____	No	_____
	(for Cryovac)		(for Pechiney)

**II. TORTIOUS INTERFERENCE**

Question 2: Did Cryovac prove by a preponderance of the evidence that Pechiney tortiously interfered with a contract between Cryovac and National Beef?

Yes	_____	No	_____
	(for Cryovac)		(for Pechiney)

Question 3: Did Cryovac prove by a preponderance of the evidence that Pechiney tortiously interfered with a business relationship or prospective contractual relations between Cryovac and National Beef?

Yes \_\_\_\_\_ No \_\_\_\_\_  
(for Cryovac) (for Pechiney)

### III. PATENT VALIDITY

Question 4: Did Pechiney prove by clear and convincing evidence that claim 11 of the '419 patent is invalid because it was anticipated by a single piece of prior art?

Yes \_\_\_\_\_ No \_\_\_\_\_  
(for Pechiney) (for Cryovac)

If the answer to this question is yes, then identify the anticipating prior art:

Answer: \_\_\_\_\_

Question 5: Did Pechiney prove by clear and convincing evidence that claim 11 of the '419 patent is invalid because the subject matter thereof, considered as a whole, would have been obvious to a person having ordinary skill in the pertinent art at the time the invention was made?

Yes \_\_\_\_\_ No \_\_\_\_\_  
(for Pechiney) (for Cryovac)

Question 6: Did Pechiney prove by clear and convincing evidence that claim 11 of the '419 patent is invalid because the patent does not contain a written description of the invention?

Yes \_\_\_\_\_ No \_\_\_\_\_  
(for Pechiney) (for Cryovac)

Question 7: Did Pechiney prove by clear and convincing evidence that claim 11 of the '419 patent is invalid because the patent does not enable a person skilled in the pertinent art to make and use the invention?

Yes \_\_\_\_\_ No \_\_\_\_\_  
(for Pechiney) (for Cryovac)

Question 8: Did Pechiney prove by clear and convincing evidence that claim 11 of the '419 patent is invalid for indefiniteness?

Yes \_\_\_\_\_ No \_\_\_\_\_  
(for Pechiney) (for Cryovac)

#### IV. DAMAGES FOR PATENT INFRINGEMENT

Question 9: Do you find that Cryovac is entitled to any lost profit damages for any of Pechiney's infringing sales?

Yes \_\_\_\_\_ No \_\_\_\_\_  
(for Cryovac) (for Pechiney)

Question 10: If you answered "yes" to the preceding question, what is the total amount of lost profits damages to which Cryovac is entitled as a result of Pechiney's infringement of the '419 patent?

Amount: \_\_\_\_\_

Question 11: For all infringing sales by Pechiney for which you did not award a lost profit damage in answer to Question 10, what is the total amount of reasonable royalty damages to which Cryovac is entitled as a result of Pechiney's infringement of the '419 patent?

Amount: \_\_\_\_\_

**V. DAMAGES FOR TORTIOUS INTERFERENCE**

If you answered "yes" to Question 2 or to Question 3, please answer the following questions.

Question 12: What is the total amount of damages to which Cryovac is entitled as a result of Pechiney's tortious interference?

Amount: \_\_\_\_\_

\_\_\_\_\_  
Foreperson

Dated: June \_\_\_\_, 2006

## **TAB 2**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CRYOVAC, INC.,	)	
	)	
Plaintiff/Counter-Defendant.	)	Civil Action No. 04-1278-KAJ
	)	
vs.	)	
	)	
PECHINEY PLASTIC PACKAGING, INC.,	)	
	)	
Defendant/Counter-Plaintiff.	)	
	)	

**CRYOVAC'S OBJECTIONS TO DEFENDANT'S PROPOSED VERDICT FORM**

Cryovac objects to Pechiney's proposed verdict form in its entirety as it is unnecessarily long, burdensome, and confusing. Pechiney's proposed verdict form contains needlessly detailed and sometimes biased commentary after every question and is confusing in light of the extensive jury instructions already given in the case. Pechiney's form also requires the jury to answer far more questions than necessary to address all the issues in this case. Cryovac also objects to Pechiney's reserving the right to later identify the prior art on which it will rely. Cryovac's proposed special verdict form is simpler, easier to follow, and less onerous for the jury to use. As such, there is less likelihood for jury confusion and prejudice to either party.